

**JOACHIM, Leonard, M.D. ,
#47527**

NOTE: this Board Order has been stayed by the Supreme Court of New Jersey pending appeal, conditioned on Dr. Joachim's compliance with the requirement that he have a Board-approved chaperone present during examinations as detailed in the Interim Consent Order filed July 9, 2003. Oral argument is scheduled for August 14, 2007.

FILED

MAY 21, 2007

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE BOARD OF MEDICAL
EXAMINERS
DOCKET NO.

In the Matter of the Suspension)
or Revocation of the License of)

LEONARD JOACHIM, M.D.)
License No. MA 47527)

Administration Action
ORDER

To Practice Medicine and)
Surgery in the State of)
New Jersey)

~~This matter was opened to the New Jersey State Board of
Medical Examiners for consideration of an Initial Decision on a
Verified Complaint seeking the suspension or revocation of
respondent's license to practice medicine filed by then Attorney
General Peter C. Harvey, by Doreen A. Hafner, Deputy Attorney
General. The one Count Verified Complaint, filed on June 30,
2003 alleged that on or about March 24, 2003, respondent, in the
course of rendering medical treatment to patient D.S., took her
hand and placed it upon his pants in such a manner so that she
could feel that he had an erect penis. The complaint further
alleged that he hugged her and gave her a kiss on the mouth
during the course of the visit. In addition, he was charged with
having sought from D.S. directions to her home - both in the
course of a patient visit and by a separate unsolicited phone~~

CERTIFIED TRUE COPY

call on or about April 4, 2003. Even though D.S. did not provide respondent with directions and advised that she did not want him coming to her home, the Attorney General alleged that respondent drove to her home on or about April 4, 2003. These contacts were alleged to "lack any justification as medical treatment and constitute an abuse of the physician-patient relationship" and a violation of N.J.S.A. 45:1-21 (c), (d), (e), (h), and (i) and evidential of a lack of good moral character as required by N.J.S.A. 45:9-6. The complaint was filed as part of an application for the temporary suspension of respondent's license, filed pursuant to N.J.S.A. 45:1-22, alleging that respondent's practice presented a clear and imminent danger to the public health, safety, and welfare. On the return date for that application, July 9, 2003, respondent entered into an Interim Consent Order, wherein he agreed to treat female patients in the office setting only in the presence of a Board-approved chaperone. Further, in other settings, certain procedures triggered the need for a chaperone.

Thereafter this matter was referred to the Office of Administrative Law and hearings were held before the Honorable Maria Mancini La Fiandra, Administrative Law Judge ("ALJ") on four (4) dates beginning October 11, 2005 and ending June 28, 2006. Deputy Attorney General Hafner represented the Attorney General, and appearing on behalf of respondent was Steven I.

Kern, Esq. Following submission of post-hearing briefs the record was closed on January 4, 2007. An application to extend the time for Initial Decision was granted. The Initial Decision of the ALJ was mailed to the parties on April 10, 2007; it is incorporated by reference, as if fully set forth herein. Exceptions were filed by Attorney General on April 20, 2007. Respondent's exceptions were first sent to the Board office on April 23, 2007, with an amended copy, sent on April 24. The State filed a reply to the exceptions on May 2, 2007.

A hearing on exceptions was scheduled for May 9, 2007, and counsel were advised in advance of that date that they would each have a half hour to present arguments on exceptions, with the penalty phase of the proceeding to follow, in the event that the Board were to conclude that there was a basis for the imposition of penalties. The Board had available at the time of its consideration transcripts of the four days of hearing at the Office of Administrative Law.¹

¹ On the day of the Board's hearing, May 9, 2007, respondent made a motion to strike the State's May 2 reply to exceptions as being untimely and because he contended it had postulated facts not in evidence. He asked that his twenty page motion brief be distributed to Board members. The Attorney General made an oral motion to strike the respondent's motion to strike. The OAL rules allow for exceptions to be filed to an ALJ's Initial Decision within 13 days of the date that the decision was mailed to the parties. The Attorney General asserted that respondent's exceptions were not received until April 25, 2007, and thus the mailing of the reply on May 2 was within time, in accordance with the OAL rules since N.J.A.C. 1:1-1.4, provides that: "[i]n computing a period of time of less than 7 days, Saturdays, Sundays and legal holidays shall be excluded." Rather

FINDINGS OF FACT AND CONCLUSION OF LAW

The Board adopts the Findings of Fact and Conclusions of Law as set forth in the Initial Decision of the ALJ in this matter. In so adopting the ALJ's findings, we have determined that the State has met the burden of proving the allegations of the Verified Complaint. The Deputy Attorney General maintained and the ALJ found that as to the critical elements of the events, D.S.'s testimony remained consistent throughout. To be sure there were details that vary and the ALJ addressed the inconsistencies concluding that an "inability to recollect does not amount to a willful falsehood." She explained that her "examination of the record supports D.S.'s testimony" as to the date of the incident being March 26, not April 2 as set forth by the defense, utilizing testimony from the D.S.'s treating physical therapist regarding his recordings of symptoms of fresh bruising. Likewise the ALJ affirmatively concluded that, contrary to the testimony of respondent's office manager, the medical record buttressed D.S.'s testimony that there was physical contact during the visit, in that the record indicated

than belabor the point, and in the interest of "just results" and "simplicity in process," the Board has chosen to admit into the record all of the documentary submissions. It will deem the deputy's exceptions to have been timely filed. Nor is the Board of the view that the exceptions should be struck for improperly advancing facts not in evidence; in our view, it represents advocacy, just like respondent's submissions. In addition the Board will include within the record respondent's letter of May 8, 2007 and his May 9 handout - captioned as a motion to strike - even though the OAL rules do not provide for a reply to a reply.

findings upon palpation. As the ALJ noted

Credibility is the value that a finder of fact gives to a witness' testimony. It requires an overall assessment of the witness' story in light of its rationality, internal consistency and the manner which it hangs together with the other evidence.

The ALJ concluded that the essential facts of the incidents were established through her testimony, and supported by the testimony of disinterested witnesses and the documentary evidence. The ALJ expressly found D.S.'s testimony "did not waver throughout the pendency of this proceeding." She expressly found D.S.'s testimony "with regard to the actual touching, phone call, and sighting of respondent near her home, to be credible." Moreover, she expressly found the testimony of respondent's witnesses to be "less credible than the testimony of Complainant's witnesses."

The Board is mindful of the role that it has been given at this juncture. Under N.J.S.A. 52:14b-10(c),

[i]n reviewing the decision of an administrative law judge, . . . [t]he agency head may not reject or modify any findings of fact as to issues of credibility of lay witness testimony unless it is first determined from a review of the record that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent, and credible evidence in the record. In rejecting or modifying any findings of fact, the agency head shall state with particularity the reasons for rejecting the findings and shall make new or modified findings supported by sufficient, competent, and credible evidence in the record.
[N.J.S.A.] 52:14b-10(c).]

In this case, the ALJ's findings are neither arbitrary or capricious. Her conclusions as to the weight of the evidence are

supported by reasoning based on the facts presented and it is she who had an opportunity to assess the demeanor of the witnesses and consider their motivations. We note that the touching was described by D.S. in similar fashion repeatedly, at trial, and to others at or about the time of the incident. By all accounts there was at least a momentary time that D.S. and the doctor were alone. The different phraseology used by D.S. to describe the sighting of respondent near her home are not so divergent as to be irreconcilable. At base, the accounts establish that at or about the time she was leaving her home, D.S. saw respondent in his car. We are satisfied that the ALJ - the individual entrusted with the responsibility to hear the matter and develop and consider the record - made sound judgments with respect to the credibility of witnesses and, given the standards applicable to agency review, we will not disturb those findings. Respondent has provided insufficient basis to warrant disturbing the ALJ's determination.

Once having established findings of fact that the events occurred, we agree with the ALJ that respondent's conduct constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e). This conclusion alone would provide basis for the disciplinary result here. We also agree that the findings support a conclusion that the Board's rule pertaining to sexual misconduct, N.J.A.C. 13:35-6.3, was violated as well, and thus

basis exists for the imposition of disciplinary sanctions pursuant to N.J.S.A. 45:1-21(h). In light of these conclusions, like the ALJ, we find it unnecessary to address the applicability of the other violations set forth in the administrative complaint.

DISCUSSION OF PENALTY

After the Board announced its findings of facts and conclusions of law and found a basis for disciplinary action, respondent was afforded the opportunity to present mitigating circumstances and the State an opportunity to respond and advance aggravating circumstances, prior to a determination of penalty. Going into the consideration of the appropriate penalty two factors are notable - the ALJ's recommendation and the past disciplinary history. The ALJ had recommended that respondent's license to be practice be revoked in consideration of the fact that respondent had "purposefully subjected" D.S. - an "extremely vulnerable person" -- to "psychological danger and harm" and the fact that respondent was a second offender. The Attorney General alleged - at the time of the filing of the matter and now - that the conduct undergirding the current complaint was a repetition of conduct which ultimately resulted in respondent's March 31, 1995 plea of guilty to one count of Criminal Sexual Contact and a Stipulation of Settlement with the Board on June 30, 1995 imposing probation for two years and a

requirement that he be accompanied by a chaperone at all times when conducting an examination of female patients. Those dispositions addressed earlier allegations that under the guise of medical treatment respondent had engaged in improper and inappropriate sexual conduct with two patients. The transcript of the sentencing before Judge Marmo reflects that not only did respondent admit to the conduct, the prosecutor, in support of his decision agree to a probationary sentence, reported that contemporaneous with the event, respondent was recorded apologizing profusely to one of the victims. (P-2) Respondent assured the court that "it never, ever, will happen again, And I'm sorry to the victim." Accordingly, the Attorney General maintains that the conduct alleged in the 2003 complaint be deemed a second or subsequent violation. That backdrop, contrary to respondent's argument, is extraordinarily relevant and an entirely appropriate matter for the ALJ's and the Board's consideration.

As he has at prior appearances before the Board, respondent presented testimony from a very loyal group of colleagues and patients. We have little doubt about the sincerity of these individuals. All reported that they would have no qualms were respondent to remain in active practice, and indeed expressed personal concern that he might not be available to treat them and their family members. His skills as a

clinician have never been the subject of an action. These witnesses all remarked on respondent's compassionate and caring demeanor and his willingness to extend themselves to him in a manner unparalleled by other physicians with whom they had treated.

That the patients who have professional and personal ties to the doctor have the utmost faith in respondent does not mean that all patients are safe. We are concerned, based on the this matter and the earlier disciplinary action, that he may prey upon those with whom he does not have a nexus, those among his patient population who would be unlikely to report untoward behavior, and those who if they did might be discounted. These individuals are especially worthy of protection.

Moreover the picture painted by these patient proponents also bespeaks of a familiarity that is not conducive to an appropriate physician-patient relationship. Many spoke of the respondent's availability to them during personnel crises. While compassion is certainly a laudatory attribute, a physician must maintain a boundary. Our concerns that respondent lacks insight into his own behavior are underscored by the report of psychiatrist, Ricardo Fernandez, M.D., who had interviewed respondent on the referral of the Professional Assistance Program, offered in mitigation. Dr. Fernandez found "no significant psychopathology in the doctor that is evident" and

"no overt finding of sexual predatory behavior." Although his report reflects that Dr. Fernandez started with an incomplete description of both the current complaint and without a prior psychiatric evaluation and a full disciplinary history, and he fully acknowledges that his review might be unable to "detect more subtle types of sexual deviancy or paraphilia that could exist", we note that the observations that he is able to make, are particularly troubling:

When the doctor was asked to explain how he could have two similar allegations occur within such a relatively short period of time, he explained that his wife told him that he overextends himself to patients "maybe I am too nice, I don't draw the line...I show my emotions too much to a patient... too eager to please". He feels that occasionally others misinterpret his intentions. The 1995 case he views as very different from the most recent in that the woman was psychiatrically impaired and misunderstood his intentions while the more recent case was strictly for monetary gain. He acknowledges that perhaps he may have boundary issues but denies any inappropriate sexual urges.

Dr. Fernandez acknowledges the testing conducted "suggests that [respondent's] self-favorable responding derived in part from an intentional effort to 'look good' on the testing." Thus he concluded that:

[T]he results of the MMP1-2 may significantly understate the severity level of his difficulties. In the area of symptoms and personality characteristics, the profile suggests repressive and denying defenses with uneven insight and self-awareness. He would minimize shortcomings and limitations both in himself and others, righteously reacting as though everyone somehow were or to be more virtuous than they are. His outward composure and self-restraint would nevertheless

be limited by a narrowly correct social etiquette. . . . His moral rigidity would conflict with allowing natural expressions of his anger. The profile suggests a strong need to control his temper and possible angry outbursts. The rare expressions of anger that do occur are apt to be self-righteous and subtly punitive. . . . Underlying conflicts and insensitive pride around his sexuality are suggested. Self-control and avoidance of criticism are self-protective behaviors that would influence many aspects of his life. The pattern suggests a public role of being cooperative and social with a strict correct etiquette, however his profile is within the normal range. It should be reemphasized that his self-favorable responding together with his mild, conscious tendencies to understate his problems and to idealize his self-presentation may make his profile somewhat more ambiguous than most.

Certainly these observations on testing compel us to conclude that a much more comprehensive assessment must be conducted before respondent is ever to return to practice. Dr. Fernandez's conclusion that respondent has a "faulty awareness of psychological and personal boundaries" and the limitations of the review that he conducted suggest that what has been presented is hardly a rousing endorsement of respondent's request to be returned to active practice. Dr. Fernandez wrote of respondent:

By his own admission, he recognizes he may have some problems recognizing boundaries. This is supported by psychological testing results suggesting repressive and denying defenses with uneven insight and self awareness.

He concluded:

[G]iven the multiplicity of events, it should be required that the doctor undergo a more extensive evaluation for paraphilic behavior in a center that specializes in this aspect of psychiatric disorder to rule out a more subtle sexual boundary problem.

In addition, Dr. Fernandez specifically identified a need for psychotherapy:

By the doctor's own observation and supported by the MMPI-2, he may have limited insight and awareness in the area of potential patient boundary transgressions and as such should enter into individual psychotherapy to gain insight and knowledge to keep these problems from reoccurring. I would recommend weekly therapy with a qualified psychologist/psychiatrist for a period of at least one year with quarterly reports. If he is permitted to practice, until further evaluation clears him of any sexual deviancies, he should be required to have chaperones present with all female patients.

We are of the view that no practice can be permitted until that these preliminary steps are addressed. The public relies on the Board to assure that those who are entrusted with a medical license are not going to harm those they are engaged to help. There must be a full evaluation conducted, grounded on a complete understanding of the events and the doctor's record. Respondent in his own testimony before the Board maintains his innocence and shows no responsibility for or insight into his own behavior. Without that, there can be no assurance that the public is safeguarded. If the respondent were to demonstrate to the satisfaction of the Board that he has developed such an understanding, and has taken meaningful therapeutic steps to address his problems, it could consider some resumption of practice. In no case will the Board even entertain that request before six months. The progress expected cannot be attained without considerable work and dedication. Significant limitations

and restrictions, including a continued suspension, may well extend into the future. But the Board is of the view that rather than adopt the ALJ's recommendation that respondent's license be revoked, it should have a more thorough understanding of the psychological status of respondent and the measures that would best protect the public going forward. Only through his own efforts can respondent demonstrate that he is ready to return to any practice, and worthy of the trust that all patients - especially the most vulnerable - and the Board must place in him. The Board has deferred decision of the Attorney General's cost application, allowing respondent additional time to file a written response. It will also defer decision on a monetary penalty until such time as it takes up the issues of costs.

ACCORDINGLY, IT IS ON THIS 19TH DAY OF MAY 2007

ORDERED:

1. Respondent's license to practice medicine and surgery in the State of New Jersey is hereby suspended.

2. The Board will not entertain any application for reinstatement of licensure for a minimum of six months from May 9, 2007, and if such application is made it must be supported by documentation to the satisfaction of the Board that:

(a) respondent has successfully completed an intensive course pre-approved by the Board, focused upon boundary issues, tailored to physicians accused of sexual

misconduct.²

(b) he shall submit to a full psycho-social evaluation by a program specializing in the evaluation of sexual misconduct and boundary violations by health care professionals at the Joseph J. Peters Institute. That evaluation must include consideration of the entire disciplinary file of the Board.

(c) he has followed all of the recommendations of the Professional Assistance Program, as evidenced by a detailed report of the Medical Director of the program.

Should the Board determine that any return to practice be permitted, it may direct such conditions or limitations that will be adequately protective of the public interest, in light of its consideration of the materials filed in support of the application.

3. The Board shall hold open the record in this matter for consideration of respondent's written response to the Attorney General costs application. Respondent shall have thirty (30) days from the date of the entry of this order to file his written

² Medical Education Director Mary Blanks advises that "Professional Boundary problems: Addressing Underlying Causes, Treatment and Prevention" a 24 credit Category I continuing medical education course, sponsored by the University of Alabama School of Medicine in Atlanta, Georgia, would be approved. Course descriptions for any other alternative courses which respondent might seek to have the Board consider in satisfaction of this requirement would need to be presented to Dr. Blanks, in advance of enrollment.

response, and the deputy shall have fifteen days thereafter to file a response. The Board will consider this matter on the papers, unless respondent advances reasons that the Board determines demonstrate a need for an appearance is warranted. The Board expressly reserves on making a decision with respect to the imposition of penalty, pending its consideration of the costs application.

4. Respondent's request for a stay pending appeal is denied as the Board considers any practice without the required evaluation, course-work, and PAP oversight will leave the public without the protection to which it is entitled.

5. This Order shall be effective May 18, 2007, with the directive that no female patients should be seen, treated, or examined in any manner outside the presence of a chaperone during the period from the date of the Board's decision until May 15, 2007.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

BY: Sindy Paul, MD

Sindy Paul, M.D.
Board President

List of Exhibits

- R-1 Letter form patients and colleagues "not able to be present"
- signed by 12 individuals.
- R-2 Letter from patients and colleagues "not able to be present"
signed by 19 (on page of faxed signatures)
- R-3 Position Statement of the Professional Assistance Program on
Leonard Joachim, M.D. dated May 3, 2007, with a May 4, 2007
report of Richardo J. Fernandez, M.D.
- Exhibit A - Certification of Doreen A. Hafner, Deputy Attorney
General
- Exhibit B - Certification of Costs of Deborah Zuccarelli, R.N.
dated June 27, 2006 (\$5,298.38)
- Exhibit C - Certification of Costs of Richard L. Perry,
Supervising Investigator dated June 27, 2006 (\$298.94)
-
- Exhibit D - Certification of Costs of Deborah Zuccarelli, R.N.
dated June 27, 2006 (\$796.47)
-
- ~~Exhibit E - Certification of Costs of Richard L. Perry,
Supervising Investigator dated June 27, 2006 (\$274.03)~~
- Exhibit F - Certification of Costs of Richard L. Perry,
Supervising Investigator dated June 27, 2006 (\$224.03)
- Exhibit G - Certification of Costs of Robert Elker, Supervising
Investigator dated June 27, 2006 (\$743.62)
- Exhibit H - Certification of Costs of Richard L. Perry,
Supervising Investigator, dated June 29, 2006
(\$1,155.53)
- Exhibit I - Division of Law Timekeeping System, Time sheets for
Doreen Hafner, Deputy Attorney General
- Exhibit J - Scheduled of Attorney Fees, effective September 1,
1999
- Exhibit K - Scheduled of Attorney Fees, effective May 1, 2005
- Exhibit L - Affidavit of William V. Roeder, dated April 19, 2007,
with attached invoices.

ORDER ON EMERGENT APPLICATION

In The Matter Of The
Suspension Or Revocation
Of The License Of:

LEONARD JOACHIM,
LICENSE NO. MA 47527,

To Practice Medicine And
Surgery In The State of
New Jersey

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-
MOTION NO. M-
BEFORE PART: H
JUDGE(S): RODRÍGUEZ
SABATINO

EMERGENT APPLICATION

FILED: 5/16/07

BY: R. BRUCE CRELIN, ESQ. AND
STEVEN I. KERN, ESQ.
OF KERN, AUGUSTINE, CONROY
& SCHOPPMANN, P.C.
ATTORNEYS FOR APPELLANT
LEONARD JOACHIM

ANSWERS FILED: / /

BY: DOROTHY HAFNER, DEPUTY
ATTORNEY GENERAL,
STUART RABNER, ATTORNEY
GENERAL OF NEW JERSEY
ATTORNEYS FOR RESPONDENT
NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS ON
THIS **16th** DAY OF MAY, 2007, HEREBY ORDERED AS FOLLOWS:

EMERGENT APPLICATION
TO STAY THE MAY 9, 2000
DECISION AND FINAL ORDER
OF THE NEW JERSEY STATE
BOARD OF MEDICAL EXAMINERS
SUSPENDING APPELLANT'S MEDICAL
LICENSE FOR SIX MONTHS

GRANTED	DENIED	OTHER
()	()	(X)

SUPPLEMENTAL:

The matter appears to be potentially emergent in nature. Appellant shall file with the clerk forthwith an original and two (2) copies of a notice of appeal, with additional copies to opposing counsel and the chambers of Judges A. A. Rodríguez and Sabatino. Appellant shall furnish the clerk with the balance of the \$200 filing fee. Appellant shall also forthwith serve upon Judge Rodríguez and the clerk two (2) copies of its brief, appendix, and notice of motion in support of emergent relief, which it previously supplied today to Judge Sabatino. The State's responding papers, and copies of the Board's anticipated written order implementing its oral decision denying appellant an emergent administrative stay pending appeal, shall be served on Judges Rodríguez and Sabatino and opposing counsel, and also filed with the Clerk, by noon on Monday, May 21, 2007. Pending its review of the emergent application, the court hereby suspends the operation of the Board's suspension of applicant's license until Tuesday, May 22, 2007, at 4:00 p.m.

FOR THE COURT:



JACK M. SABATINO, J.A.D.

**KERN AUGUSTINE
CONROY & SCHOPPMANN, P.C.**
1120 Route 22 East
Bridgewater, New Jersey 08807
(908) 704-8585
Attorneys for Appellant

In The Matter Of The Suspension Or
Revocation Of The License Of:

LEONARD JOACHIM,
LICENSE NO. MA 47527,

To Practice Medicine And Surgery In The
State Of New Jersey.

SUPREME COURT OF NEW JERSEY
DOCKET NO.

Appellate Division Docket No. A-4723-06T1

On Appeal From:

New Jersey State Board of Medical Examiners
Agency Number: BDS 7297-03

**NOTICE OF MOTION FOR EMERGENT
STAY PENDING APPEAL PURSUANT TO
R. 2:9-8 AND R. 2:9-5(b)**

TO: THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES
Supreme Court of New Jersey
Hughes Justice Complex
25 W. Market Street
Trenton, New Jersey 08625-0970

DOREEN HAFNER, ESQ., D.A.G.
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

PLEASE TAKE NOTICE that the Appellant, Leonard Joachim, M.D. ("Dr. Joachim"), by and through his attorneys, Kern Augustine Conroy & Schoppmann, P.C., hereby moves before the Supreme Court of New Jersey for an emergent Order, pursuant to R. 2:9-8 and R. 2:9-5(b), staying the Decision and Final Order of the New Jersey State Board of Medical Examiners entered orally on May 9, 2007 and filed on May 21, 2007, suspending Dr. Joachim's license for six (6) months, pending an appeal of the Order.

In support of this motion, the Appellant shall rely upon the submissions previously filed with the Appellate Division, and the May 22, 2007 letter of Ricardo J. Fernandez, M.D. submitted herewith.

Respectfully submitted,

KERN AUGUSTINE
CONROY & SCHOPPMANN, P.C.

By: 

R. Bruce Crelin

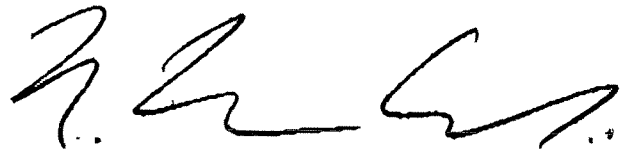
Dated: Bridgewater, New Jersey
May 22, 2007

CERTIFICATION OF FILING AND SERVICE

I hereby certify that the original and nine (9) copies of the within Supreme Court Notice of Motion and nine (9) copies of all supporting documents were submitted this date for filing to the Clerk of the Supreme Court of New Jersey, via Federal Express, for delivery on the next business day, and that a true copy of the Supreme Court Notice of Motion and Letter from Dr. Fernandez were forwarded via telecopier, for delivery on May 23, to counsel for the Board, addressed as follows:

Dorothy Hafner, Esq., D.A.G.
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101,

counsel for the Board already being in possession of copies of the other documents. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are wilfully false, I am subject to punishment.



R. Bruce Crelin

Dated: Bridgewater, New Jersey
May 22, 2007

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ORDER ON EMERGENT APPLICATION

In The Matter Of The
Suspension Or Revocation
Of The License Of:

LEONARD JOACHIM,
LICENSE NO. MA 47527,

To Practice Medicine And
Surgery In The State of
New Jersey

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4723-06T1
MOTION NO. M-
BEFORE PART: H
JUDGE(S): RODRÍGUEZ
SABATINO

EMERGENT APPLICATION

FILED: 5/16/07

BY: R. BRUCE CRELIN, ESQ. AND
STEVEN I. KERN, ESQ.
OF KERN, AUGUSTINE, CONROY
& SCHOPPMANN, P.C.
ATTORNEYS FOR APPELLANT
LEONARD JOACHIM

ANSWERS FILED: 05/21/07

BY: DOROTHY HAFNER, DEPUTY
ATTORNEY GENERAL,
STUART RABNER, ATTORNEY
GENERAL OF NEW JERSEY
ATTORNEYS FOR RESPONDENT
NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS ON
THIS 22nd DAY OF MAY, 2007, HEREBY ORDERED AS FOLLOWS:

EMERGENT APPLICATION
TO STAY THE MAY 9, 2007
DECISION AND FINAL ORDER
OF THE NEW JERSEY STATE
BOARD OF MEDICAL EXAMINERS
SUSPENDING APPELLANT'S MEDICAL
LICENSE FOR SIX MONTHS

GRANTED	DENIED	OTHER
()	(X)	(X)

SUPPLEMENTAL:

Appellant's emergent motion for a stay of the Board of Medical Examiners' decision suspending his medical license for six months is DENIED. We are unpersuaded that appellant has met the criteria for such relief, without prejudice to the ultimate disposition of the appeal on its merits. See Crowe v. DeGioia, 90 N.J. 126 (1982).

However, sua sponte, we accelerate the consideration of the appeal, which will be calendared before Summer Part U. Appellant shall file and serve his merits brief and appendix by June 8, 2007; respondent's merits brief and appendix shall be filed and served by June 25, 2007, and any reply brief shall be filed and served by June 29, 2007. Counsel shall advise the Clerk of the Appellate Division in writing by June 1, 2007 whether they request oral argument; if such argument is requested, the Clerk will advise counsel of the date of the argument and whether it shall be telephonic or in person.

FOR THE COURT:



JACK M. SABATINO, J.A.D.

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SUPREME COURT OF NEW JERSEY
September Term 2006

In the Matter of the Suspension or
Revocation of the License of

LEONARD JOACHIM
LICENSE NO. MA 47527

To Practice Medicine and Surgery
in the State of New Jersey

Respondent-Movant.

ORDER

FILED

MAY 22 2007

CLERK

This matter having come before the Court on an emergent
application before JUSTICE JOHN E. WALLACE, Jr. for emergent relief
pursuant to Rule 2:9-8;

It is on this 22nd day of May, 2007, hereby ORDERED that
respondent's emergent motion for a stay pending appeal of the decision
of the New Jersey State Board of Medical Examiners to suspend his
license is GRANTED, pending disposition of the motion for stay by the
full Court; and it is further

ORDERED that nine copies of papers filed by respondent and the
New Jersey Attorney General in respect of the application for emergent
relief in the Appellate Division shall be filed with the Clerk of the
Supreme Court by 4:00 p.m. on May 23, 2007, together with respondent's
Supreme Court notice of motion and a filing fee in the amount of \$30.

The foregoing is a true copy
of the original on file in my office.

[Signature]
CLERK OF THE SUPREME COURT
OF NEW JERSEY

[Signature]
Justice John E. Wallace, Jr.

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SUPREME COURT OF NEW JERSEY
M-1336 September Term 2006IN THE MATTER OF THE SUSPENSION OR
REVOCATION OF THE LICENSE OFLEONARD JOACHIM
LICENSE NO. MA 47527TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

O R D E R

FILED

JUN - 1 2007



CLERK

This matter having been duly presented to the Court, it is
ORDERED that the motion of Leonard Joachim, M.D., for stay
pending appeal is granted conditioned on his continued compliance
with the requirement that he have a Board of Medical Examiners-
approved chaperone present during examinations as detailed in the
Interim Consent Order dated July 9, 2003.

WITNESS, the Honorable James R. Zazzali, Chief Justice, at
Trenton, this 29th day of May, 2007.


CLERK OF THE SUPREME COURT

The foregoing is a true copy
of the original on file in my office.


CLERK OF THE SUPREME COURT
OF NEW JERSEY

A-4723-06T1

IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4723-06T1
SUMMER PART U SABATINO
BAXTER

IN THE MATTER OF LEONARD
JOACHIM, M.D.

SCHEDULING ORDER

FILED
APPELLATE DIVISION

JUN 05 2007

This matter being opened to the court on its own motion as a result of the court's June 4, 2007 informal telephone conference with counsel as to appellant's request to extend the time for the filing of the briefs on this accelerated appeal; and in light of the Supreme Court's imposition of a conditional stay of the suspension of appellant's license to practice medicine pending the accelerated appeal; and in light of the public interest in the expeditious review of the merits of the Board's decision to suspend appellant's license, notwithstanding other discrete issues that may be present in the case, including counsel fees; and in light of the pendency of the counsel fee issue before the Board and the likelihood that the fee-related issues will involve collateral matters of discovery and the assertion of privileges and potential novel issues of statutory construction that do not appear amenable to prompt disposition and review, it is, on this 5th day of June 2007 ordered as follows:

1. All issues relating to the Attorney General's pending application for counsel fees and costs are hereby severed, sua sponte, from this accelerated appeal, which shall be confined to the merits of the Board's decision to suspend appellant's medical license.
2. There presently being no final disposition of all issues by the Board, this court hereby deems the previously-filed notice of appeal to be treated as an application for leave to appeal the Board's licensure determination, which is hereby granted as within time. The Board shall continue to retain jurisdiction over the counsel fee issue and related issues, as well as over any issues that may arise regarding enforcement of the terms of the conditional stay pending appeal.
3. Any review sought by either party of the Board's ultimate determination of the counsel fee issues shall be pursued through the filing of a separate notice of appeal.
4. Appellant's merits brief and appendices on appeal shall be filed and served by June 22, 2007, with additional copies submitted directly to the chambers of Judges Baxter and Sabatino.
5. Respondent's merits brief and appendices on appeal shall be filed and served by July 9, 2007, with additional copies submitted directly to the chambers of Judges Baxter and Sabatino.
6. Any reply brief and appendix from appellant shall be filed and served by July 16, 2007, with additional copies submitted directly to the chambers of Judges Baxter and Sabatino.
7. No other papers may be filed without leave of this court.
8. Oral argument before this Summer Part shall be heard at 11:30 a.m. on August 14, 2007 at the Hughes Justice Complex in Trenton. Each side is allotted thirty minutes for argument, including any rebuttal.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.

Jack M. Sabatino
CLERK OF THE APPELLATE DIVISION

Jack M. Sabatino
Jack M. Sabatino, J.A.D.